

PHONORECORDS IV

Before the
UNITED STATES COPYRIGHT ROYALTY JUDGES
Library of Congress
Washington, D.C.

In re

Determination of Royalty Rates and Terms
for Making and Distributing
Phonorecords
(Phonorecords IV)

Docket No. 21-CRB-0001-PR
(2023–2027)

WRITTEN DIRECT STATEMENT AND TESTIMONY OF GEORGE D. JOHNSON (GEO) a Pro Se PARTICIPANT

Volume 3

Designated Testimony

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(formerly BMI)*

Wednesday, October 13, 2021

LIBRARY OF CONGRESS

UNITED STATES COPYRIGHT ROYALTY JUDGES

The Library of Congress

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IN THE MATTER OF:)

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DETERMINATION OF RATES) Docket No.

AND TERMS FOR MAKING AND) 16-CRB-0003-PR

DISTRIBUTING PHONORECORDS) (2018-2022)

(PHONORECORDS III),)

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1 famous or successful songwriter, but I still write
2 songs. But not for a living.

3 JUDGE BARNETT: Okay. All right. Thank
4 you. And you may present your evidence at this
5 time.

6 EVIDENCE PRESENTED BY GEORGE JOHNSON

7 THE WITNESS: Thank you, Your Honor. I
8 think -- excuse me -- what I'm going to try to do is
9 go through my evidence, and I'd like to enter my
10 evidence, if I could. I don't know if I enter it on
11 a single basis. I have GEO Exhibits 4001 to 4086.
12 And I'd like to enter those in the record if I could
13 or do them on an individual basis. I'm not sure
14 which is best.

15 JUDGE BARNETT: We will mark all of those
16 as provisionally admitted until we review the
17 objections by the parties.

18 THE WITNESS: Yes, Your Honor.

19 (GEO Exhibit Numbers 4001-4086 were
20 marked and received into evidence.)

21 JUDGE BARNETT: Thank you.

22 THE WITNESS: I guess I'd also like to,
23 under Federal Rule 702, to ask the Court that I be
24 granted an expert witness as an opinion witness and
25 maybe a fact witness in the areas of songwriting, of

1 music copyright and -- those two areas, I guess.

2 JUDGE BARNETT: We can certainly admit
3 you as an expert songwriter.

4 THE WITNESS: Okay.

5 JUDGE BARNETT: Your knowledge of
6 copyright by virtue of you being a songwriter
7 certainly is fair game, but we will not accept any
8 of your testimony regarding copyright or licensing
9 as that of a copyright expert.

10 THE WITNESS: Okay. Thank you, Your
11 Honor.

12 JUDGE BARNETT: Thank you.

13 THE WITNESS: I feel weird knowing that,
14 but I guess I have to, so anyway -- so, let's see.
15 I want to start off with Exhibit 4084, please. So
16 the question is why are we here? And there's a lot
17 of reasons.

18 I have an attorney in Nashville who has
19 been my personal attorney, music attorney, Mr. James
20 Harris, who is a great attorney. And one day he
21 just sent this to me. And, of course, he is talking
22 about the 9.1 cent Subpart A, but to me it applies
23 to Subpart B. And he asks the question why do we --
24 you know, we have a minimum rate. Why do we have a
25 minimum rate? Because the minimum rate is provided

UNITED STATES COPYRIGHT ROYALTY JUDGES
The Library of Congress

In re

**DETERMINATION OF RATES AND TERMS
 FOR DIGITAL PERFORMANCE OF SOUND
 RECORDINGS AND MAKING OF
 EPHEMERAL COPIES TO FACILITATE
 THOSE PERFORMANCES (WEB V)**

**Docket No. 19-CRB-0005-WR
 (2021-2025)**

**FINAL DETERMINATION
 (Public Version)**

The Copyright Royalty Judges (Judges) hereby issue their written determination of royalty rates and terms to apply from January 1, 2021, through December 31, 2025, to digital performance of sound recordings over the Internet by nonexempt, noninteractive transmission services and to the making of ephemeral recordings to facilitate those performances.

The rate for commercial **subscription** services in 2021 **is \$0.0026 per performance**. The rate for commercial **nonsubscription** services in 2021 is **\$0.0021 per performance**. The rates for the period 2022 through 2025 for both subscription and nonsubscription services **shall be adjusted to reflect the increases or decreases, if any, in the general price level, as measured by the change in the Consumer Price Index for All Urban Consumers (U.S. City Average, all items) (CPI-U) from that published by the Bureau of Labor Statistics (BLS) in November 2020, as set forth in the regulations adopted by this determination.**

The rates for noncommercial webcasters are: **\$1000 annually** for each station or channel for all webcast transmissions totaling not more than 159,140 Aggregate Tuning Hours (ATH) in a month, for each year in the rate term. In addition, if, in any month, a noncommercial webcaster makes total transmissions in excess of 159,140 ATH on any individual channel or station, the noncommercial webcaster shall pay per-performance royalty fees for the transmissions it makes on that channel or station in excess of 159,140 ATH at the rate of **\$0.0021 per performance** in 2021. The rates for transmissions over 159,140 ATH per month for the period 2022 through 2025 shall be adjusted to reflect the increases or decreases, if any, in the general price level, as measured by the changes in the CPI-U from that published by BLS in November 2020, as set forth in the regulations adopted by this determination.

The Judges also determine herein details relating to the rates for each category of webcasting service, such as minimum fee and administrative terms, in the following analysis. “Exhibit A” to this determination contains the regulatory language codifying the terms of the Judges’ determination.

Proof of Delivery

I hereby certify that on Wednesday, October 13, 2021, I provided a true and correct copy of the Docket No. 21-CRB-0001-PR FINAL (2023-2027) PRS IV - 2021-10-13 - Volume 3 - Designated Testimony for GEORGE JOHNSON'S (GEO) WRITTEN DIRECT STATEMENT to the following:

Pandora Media, LLC, represented by Benjamin E. Marks, served via ESERVICE at benjamin.marks@weil.com

Spotify USA Inc., represented by Joseph Wetzel, served via ESERVICE at joe.wetzel@lw.com

Powell, David, represented by David Powell, served via ESERVICE at davidpowell008@yahoo.com

Joint Record Company Participants, represented by Susan Chertkof, served via ESERVICE at susan.chertkof@riaa.com

Google LLC, represented by Gary R Greenstein, served via ESERVICE at ggreenstein@wsgr.com

Amazon.com Services LLC, represented by Joshua D Branson, served via ESERVICE at jbranson@kellogghansen.com

Apple Inc., represented by Mary C Mazzello, served via ESERVICE at mary.mazzello@kirkland.com

Copyright Owners, represented by Benjamin K Semel, served via ESERVICE at Bsemel@pryorcashman.com

Zisk, Brian, represented by Brian Zisk, served via ESERVICE at brianzisk@gmail.com

Signed: /s/ George D Johnson